



Dale Saran <dalesaran@gmail.com>

Wilson v. Austin - Comirnaty Offer and Scheduling

Avallone, Zachary A. (CIV) <Zachary.A.Avallone@usdoj.gov> Fri, Jun 17, 2022 at 11:33 AM
To: Brandon Johnson <bcj@defendingtherepublic.org>, "dalesaran@gmail.com" <dalesaran@gmail.com>
Cc: "Lowenstein, Jody D. (CIV)" <Jody.D.Lowenstein@usdoj.gov>, "jward@garloward.com" <jward@garloward.com>

That works. We can use this line: 1-202-600-2533,,96440918#

Zachary A. Avallone | Trial Attorney

U.S. Department of Justice

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1100 L Street NW, Washington, DC 20005

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From: Brandon Johnson <bcj@defendingtherepublic.org>
Sent: Friday, June 17, 2022 12:27 PM
To: dalesaran@gmail.com; Avallone, Zachary A. (CIV) <Zachary.A.Avallone@usdoj.gov>
Cc: Lowenstein, Jody D. (CIV) <Jody.D.Lowenstein@usdoj.gov>; jward@garloward.com
Subject: Re: [EXTERNAL] Re: Wilson v. Austin - Comirnaty Offer and Scheduling

I can do that time so should we do a con call?

Sent from ProtonMail mobile

----- Original Message -----

On Jun 17, 2022, 12:11 PM, Dale Saran <dalesaran@gmail.com> wrote:

Absolutely! Do you have a number I can reach you at?

My cell is 508-415-8411.

Thanks,

dale

On Fri, Jun 17, 2022 at 11:03 AM Avallone, Zachary A. (CIV) <Zachary.A.Avallone@usdoj.gov> wrote:

Dale,

I'm actually going to be out of the office during the early part of next week, but I'd be happy to jump on a call to discuss today. Are you free over the next few hours? Would 1:00pm Eastern work for you?

Thanks,

Zach

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From: Dale Saran <dalesaran@gmail.com>

Sent: Friday, June 17, 2022 11:34 AM

To: Avallone, Zachary A. (CIV) <Zachary.A.Avallone@usdoj.gov>

Cc: Lowenstein, Jody D. (CIV) <Jody.D.Lowenstein@usdoj.gov>; Brandon Johnson <bcj@defendingtherepublic.org>; jward@garloward.com

Subject: [EXTERNAL] Re: Wilson v. Austin - Comirnaty Offer and Scheduling

Zach -

I've notified the Plaintiffs and I'll let you know if I hear anything back.

In the meantime, could we schedule a meet and confer as soon as you have time available?

I'd like to discuss schedule options and that is contingent on DoD actions, so might be easier than trying to hash it out on email.

I have time on Monday and Tuesday.

Cheers,

Dale

On Mon, Jun 13, 2022 at 12:58 PM Avallone, Zachary A. (CIV) <Zachary.A.Avallone@usdoj.gov> wrote:

Dale,

As I previewed last week, I am sending this email with instructions for any Plaintiff in this matter who would like to receive a Comirnaty-labeled vaccine. I understand that you do not believe that any Plaintiff would be interested, but please ensure that the offer is conveyed to your clients.

Defendants now have over 35,000 doses of Comirnaty-labeled vaccine. While it is the Defendants' position that all EUA-authorized Pfizer-BioNTech doses for adults are interchangeable for the purposes of the military's vaccination requirement, in order to address Plaintiffs' assertions they were unable to obtain a Comirnaty or BLA-manufactured dose, I wanted to confirm that any of the Plaintiffs who are still required to receive the COVID-19 vaccine to satisfy the military's requirement may receive a shot from a Comirnaty-labelled vial. If any of the Plaintiffs wish to do so, please prepare a memorandum addressed to the individual's commanding officer committing to taking a shot from a Comirnaty-labeled vial. Please provide the memorandum to me and I will ensure the request is appropriately transmitted. Should any Plaintiff confirm in writing that they will take a Comirnaty-labeled dose, Defendants can ensure that Plaintiff will be administered one of those doses. If no Plaintiff is interested, please let us know that as well. As I previously mentioned, this is not intended as an offer of compromise and we anticipate informing the Court of the offer and any response.

In terms of scheduling, I agree that it would be most useful for us to work out a reasonable schedule for briefing with sufficient time for the Court to decide these important issues. Please let me know what you propose and we can discuss further.

Thanks so much,

Zach

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